

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JUAN JARMON, et al.

:
:
:
:
:

Crim. No. 17-72-1

ORDER

On February 8, 2017, the grand jury charged Defendant Juan Jarmon and twelve others with conspiring to distribute 280 grams or more of cocaine base and related offenses. (Indict., Doc. No. 1.) The matter is set to go to trial on March 5, 2019. Today, February 26, 2019, Defendant moved to suppress all evidence obtained from wiretap interceptions, pursuant to 18 U.S.C. § 2518(10(a)), arguing that the Government’s July 11, 2013 Wiretap Application did not sufficiently demonstrate necessity. (Mot. Suppress, Doc. No. 450.) I will deny Defendant’s Motion.

A Section 2518 wiretap application requires, *inter alia*, “a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.” 18 U.S.C. § 2518(c). Section 2518(c) is “generally called . . . the ‘necessity’ requirement.” United States v. Ellis, 693 F. App’x 137, 139 (3d Cir. 2017). “The application does not have to show [that] other techniques could not possibly succeed. Rather, the application must describe the facts and circumstances surrounding the investigation that establish a ‘factual predicate’ sufficient to allow the issuing court to determine such techniques will likely be unsuccessful or too dangerous.” Id. “[T]he statutory burden on the government is not great.” Id. (quoting United States v. Armocida, 515 F.2d 29, 37 (3d Cir. 1975)). “[I]n determining whether this requirement has been satisfied, a court may properly take into account affirmations which are founded in part upon the experience of specially

trained agents.” Id.

Defendant argues that the Government did not make out necessity in its Application because other investigative techniques had yielded significant results and because the Government failed to explain why less intrusive investigative techniques would fail. Defendant thus argues that evidence obtained from all subsequent wiretap approvals should be suppressed because the first approval was unlawful.

The challenged July 11, 2013 Application and supporting Affidavit of Special Agent Trainor includes copious details respecting both the fruits of the investigation up to that point and the Government’s need for a wiretap. In pages 18 through 27 of his Affidavit, Trainor discusses the other investigative techniques that had been used or that might be used and explains why each such technique: (1) is unlikely to yield sufficient evidence to prosecute a large drug conspiracy; or (2) endangers the Government’s agents, confidential informants, or the overall success of the investigation. (See Wiretap Application, July 11, 2013.) Notably, the investigation up to that point had identified only three co-conspirators and could not determine the leaders of the organization, the supply of narcotics, or the scope of the organization. As the instant Indictment confirms, with the use of wiretaps the Government was able to make these determinations. In these circumstances, the Government has satisfied its burden. See United States v. Ellis, 693 F. App’x 137, 139 (3d Cir. 2017) (“[W]here the government investigation targets a large conspiracy and the individuals whose communications will be intercepted are members of that conspiracy, the necessity requirement relates to the demonstrated or probable inadequacy or danger of other investigative techniques to achieve the specific goals pursued by the investigation at hand.”).

AND NOW, this 26th day of February, 2019, it is hereby **ORDERED** that Defendant's Motion (Doc. No. 450) is **DENIED**.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.